

Report to the Board of Adjustment

Prepared by the Maricopa County Planning and Development Department

Case: BA2006021

Variance

Hearing Date:

May 10, 2006 (Continued from April 12, 2006)

Agenda Item:

23

Supervisory District:

3

Applicant/Owner:

Richard Watkins

Request:

Variances to permit:

- 1) A proposed building separation distance (shed/shop) of 9 feet where 15 feet is the minimum required,
- 2) An existing building separation distance (carport/storage container) of 1 foot where 15 feet is the minimum required; and
- 3) An existing building separation distance (tool shed/storage container) of 5 feet where 15 feet is the minimum required in the Rural-43 zoning district.

These variances are requested from the following Zoning Ordinance Section(s):

Section 503, Article 503.5.5

Site Location:

45416 North 12th Street – 12th Street and Gaffney Road
(New River area)

Site Size:

214,054 square feet (4.9 acres)

Existing Zoning:

Rural-43

Current Use:

Residential

Citizen

Support/Opposition:

Two E-mails of support were received at the time this report was written. No opposition is known.

Staff

Recommendation: Deny

Existing On-Site and Surrounding Zoning:

1. On-site: Rural-43
North: Rural-43
South: Rural-43
East: Rural-43
West: Rural-43

Existing On-Site and Surrounding Land Use:

2. On-site: Single-family residence
North: Single-family residence
South: Vacant
East: 12th Street/single-family residence
West: Single-family residence

Background:

3. **Circa 1987:** The primary residence was built.
4. **September 28, 1990:** The owner took title to the subject property via a Warranty Deed recorded under docket number **90441090**.
5. **October 27, 2005:** The owner submitted an application for building permit **B200515334** for a detached steel accessory building.
6. **February 21, 2005:** The applicant applied for these variance requests.
7. **April 12, 2006:** This case was forwarded to the May 10, 2006 hearing date due to a lack of quorum.

Findings:

8. **Maricopa County Department of Transportation:** No response at the time this report was written.
9. **Flood Control District:** A Floodplain Use Permit will need to be obtained from the Regulatory Division of the Flood Control District (see attached memo).
10. **Environmental Services Department:** No response at the time this report was written.

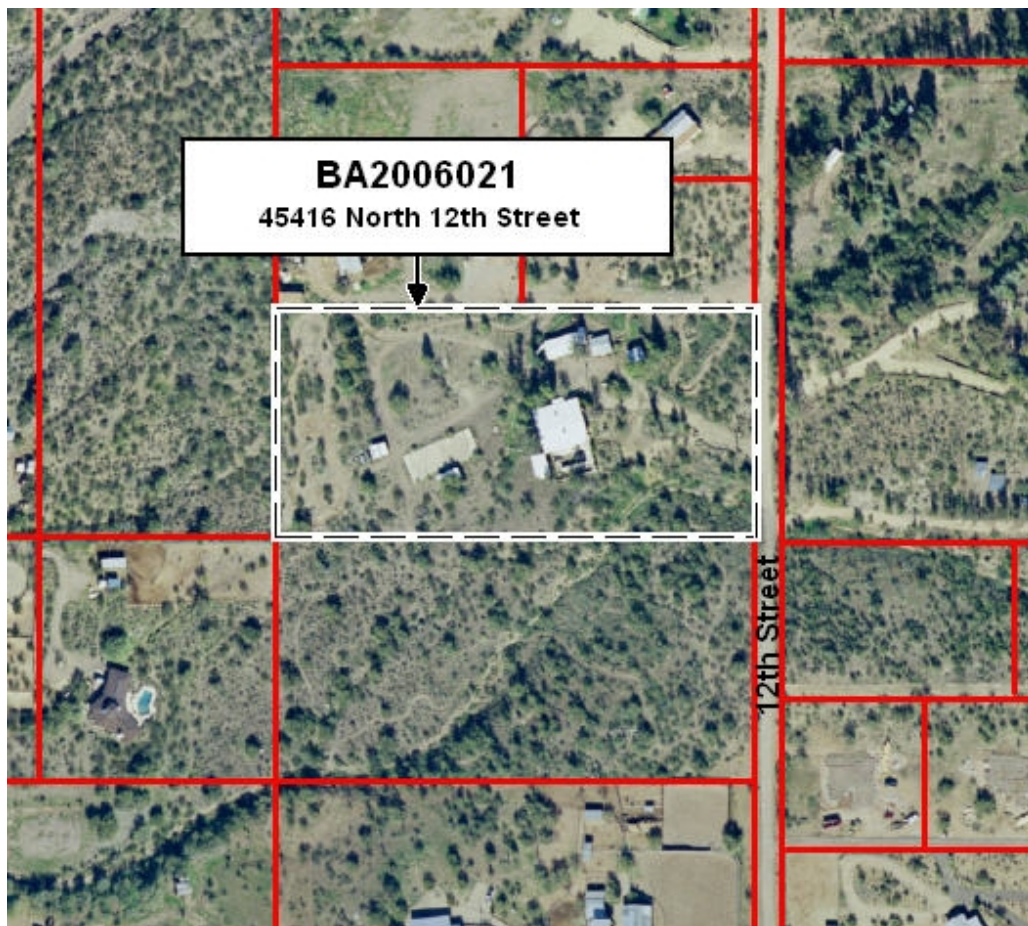
Site Analysis:

11. The subject property is located approximately $\frac{3}{4}$ miles north of the eastern end of Circle Mountain Road and is adjacent to 12th Street. This rectangular shaped property is slightly larger than 4.9-acres and has an east/west lot orientation. The site is located in the northeastern portion of the New River area and is zoned Rural-43. In addition to the subject site, there are a number of undivided, large lot properties in the general area. The surrounding area is a mix of suburban residential with a few equestrian properties developed with single-family residences and a few nearby undeveloped parcels. There are very few standard sized lots in the area which is being developed through the lot splitting process.
12. Currently, the applicant has a 3,330 square foot, single-family residence, a 676 square foot tool shed, a 1,060 square foot building with carport, three steel storage containers, a 400 square foot building adjacent to the residence, a smaller 340 square foot shed, a 630 square foot building, and a 90 square foot tin shed on the subject site. There is a graded private driveway with a large, 40 foot by 98 foot rectangular concrete slab where the 2,000 square foot shop is proposed to be built. There is a 330 square foot three-sided shed near the southern side of the concrete slab. There is evidence of an on-site wash on the southeastern portion of the site but most of the site has been cleared and other flows may have been redirected. Most of the developed portion of the site is level and free from any physical or topographical hardships. The majority of the site does, however, lie in the floodplain/floodway of a tributary of the New River wash. The northern and western areas of the site are dedicated to accessory structures related to ATV use and storage with the much of the site landscaped with native vegetation, trees, or groundcover. The area around the residence is densely vegetated and there numerous graded drives on the site. There is a mixture of fencing types with rock walls and a gate at the front of the property and wire fencing around the remainder of the site.
13. Circle Mountain Road is a two lane minor arterial that provides access to the area from New River Road to the west. Access to the subject site is from 12th Street, located on the eastern property line. 12th Street is paved to approximately 700 feet to the south of the site, where it becomes a roughly graded dirt road. In this area, 12th Street is approximately 14 feet wide most its length.

14. The following table is included to illustrate and contrast the standards for the underlying zoning district with those proposed by the applicant.

Standard	Rural-43 Zoning District	Proposed Standard
Front Yard Setback	40-feet	143-feet
Rear Yard Setback	40-feet	139-feet
Side Yard Setback	30-feet	42-feet
Street Side Setback	20-feet	n/a
Maximum Height	30-feet/2 stories	18-feet/1 story
Minimum Lot Area	43,560-sq. ft.	214,054-sq. ft.
Minimum Lot Width	145-feet	324-feet
Lot Coverage	15%	3.3%
Minimum Building Separation Distance	15-feet	1-foot

*Standards indicated in **bold** do not meet minimum base zoning standards.



Aerial view of subject property and surrounding area

Land Use Analysis:

15. The subject site is located in New River in a fairly remote area that is slowly transitioning from sparsely settled rural homes with equestrian uses, to an area of large-lot, suburban residential character. The Tonto National Forest is less than 1,000 feet north of the site. The subject property is surrounded by a mix of single-family homes that range from a few older ranch and manufactured homes, to more recent and larger custom-built homes more commonly found in suburban neighborhoods. The subject property and the immediate area is zoned Rural-43. Much of the residential settlement of this area is the result of lot splitting. Many of the surrounding homes have been built recently and overall the area does not follow a consistent pattern of development.
16. Staff found other variance cases in the surrounding area. Most of those cases were requests for setback variances. One case related to building separation issues and it is listed below.
 - Case **BA2003155** was for requests to permit: 1) an existing building separation distance of 6 feet 10 inches between an existing detached garage and an existing single-family residence where 15 feet is the minimum required, 2) an existing building separation distance of 9 feet between an existing detached garage and an existing storage container where 15 feet is the minimum required, 3) an existing building separation distance of 7 feet 2 inches between an existing single-family residence and an existing storage container where 15 feet is the minimum required, 4) a proposed building separation distance of 5 feet between proposed storage containers where 15 feet is the minimum required, 5) an existing building separation distance of 2 feet 6 inches between an existing detached storage shed and an existing single-family residence where 15 feet is the minimum required, 6) a proposed building separation distance of 3 feet between proposed storage containers where 15 feet is the minimum required, 7) a proposed building separation distance of 4 feet between an existing storage container and a proposed storage container where 15 feet is the minimum required, 8) a proposed building separation distance of 4 feet between proposed storage trailers where 15 feet is the minimum required; and 9) a proposed building separation distance of 3 feet between proposed storage trailers where 15 feet is the minimum required in the Rural-43 zoning district. The first three requests were approved with stipulations; requests 4 through 9 were denied by the Board of Adjustment. This property is located approximately $\frac{3}{4}$ of a mile south of the subject site at 43912 N. 12th Street.

Plan Analysis:

17. This request is for multiple variances to permit a proposed building separation distance (shed/shop) of 9 feet where 15 feet is the minimum required, an existing building separation distance (carport/storage container) of 1 foot where 15 feet is the minimum required; and an existing building separation distance (tool shed/storage container) of 5 feet where 15 feet is the minimum required in the Rural-43 zoning district. These

requests came about when the applicant submitted for a building permit to build a detached accessory structure (garage) on the existing concrete slab. Staff research found no permits issued for any of the structures on the subject site with the exception of the primary residence which was permitted sometime in 1987.

18. These variance requests can be further separated into two types; variance request one is for a proposed building separation issue and variance requests two and three for existing building separation issues. In reference to variance request one, the applicant has stated that he plans to use an existing concrete slab as a foundation for the proposed shed/shop. There is an existing three-sided shed, with the open side facing the proposed shed/shop that is "to close" (sic). The applicant has also stated that concerning requests two and three that he is trying to "group buildings together and not have buildings all over the property for security reasons".
19. Variance request one pertains to building separation distance between an existing 3-sided storage shed and the proposed shed/shop (photo 4). The applicant is requesting to allow a nine foot building separation where the Maricopa County Zoning Ordinance (MCZO) requires a minimum building separation distance of 15 feet in the Rural-43 zoning district. There are alternatives available for the applicant to eliminate the need for variance request one. The applicant could move the unpermitted structure to the south 6 feet which would have little impact on the subject site and would eliminate this variance request. The concrete slab under this structure could be maintained and expanded by 180 square feet south of the existing slab. The owner could also remove the shed from the site and use the proposed shed/shop to replace this structure which would also eliminate this variance request. Based on the availability of these alternatives staff recommends denial of variance requests one.
20. Variance requests two and three pertain to building separation distance between an existing carport/storage container, an existing storage container and an existing tool shed. As seen in photo 7, the storage container is located too close to the carport/storage container (1 foot) and tool shed (5 feet). It appears that the storage container has a piece of plywood between it and the carport/storage container to block the view. As with the previously described storage structure, no permits have been sought for any of these three structures. As before, there is an alternative available for the applicant to eliminate the need for these two variance requests. With almost five acres available on the site, the applicant could move the storage container to the west of the existing carport and place it entirely in the building envelope 15 feet away from any adjacent structure. This alternative would have little impact on the subject site and would also eliminate the two variance requests. Based on the availability of this alternative staff recommends denial of variance requests two and three.

21. Staff is of the opinion that, while a hardship does exist due to the floodplain/floodway designation on the subject site, staff is unable to find a specific hardship that would justify granting these variances. This is a large site; any hardship is self-created with the applicant not seeking permits for many of the structures until now. There are alternatives readily available to the applicant for each of the requests. Staff therefore recommends denial of these variance requests.

Recommendation: (BA2006021)

22. Staff recommends **denial** of these variance requests based on the following:
- The need for these variance requests is self-created.
 - There are viable alternatives available that could minimize or eliminate the need for these variance requests.
 - Granting these requests may confer a special privilege upon the applicant.
 - These requests conflict with the intent of the Zoning Ordinance.
23. If the Board finds that a reasonable use of the property cannot be made without these variances, then these requests may be approved, subject to the following stipulations:
- a) General compliance with the Site Plan received February 21, 2006.
 - b) The applicant shall obtain all necessary permits within 120 days of Board approval.
 - c) The applicant shall obtain all necessary as-built permits within 120 days of Board approval.
 - d) The applicant shall ensure that all other zoning requirements are met.

mjlw

Attachments: Case Map BA2006021
Zoning Map
Assessor Map
Site Plan
Application
Supplemental Questionnaire
Flood Control Memorandum
E-mails of support (2 pages)
Photographs (4 pages)